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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/089,269 | 07/18/2002 | Alexandr Sergeevich Zharkov | 101137-36 | 4706 |

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BRUCE LONDA
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK, NY 10017

EXAMINER

FELTON, AILEEN BAKER

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3641

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,269

Applicant(s)

ZHARKOV ET AL.

Examiner

Aileen B Felton

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 3,6,8,10,12 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7, 9, 11, 13, 14, 15, 22, and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of Group I (claims 1-15, 22, and 23) and species of the first body being an alkali metal azide and species of the second body being sulfur as elected in Paper No. 11 is acknowledged.
2. Claims 3, 6, 8, 10, 12, and 16-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and species of the first body and second body, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11. Since Applicant has elected that the first body and second body do not have other components, the claims that include other components have been withdrawn.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
4. The information disclosure statement filed 10/11/2002 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent and publication listed that is not in the English language. It has been placed in the application file, but

the information referred to therein has not been considered. Reference AR,
"Telegraphie" has not been considered.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites that the second body is 17-35 % of the gas generator. It is unclear if this is referring to the total weight of the gas generating apparatus or if this is related to the amount of the second body with the balance being the weight of the first body.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4, 5, 7, 9, 11, 13, 14, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider et al(3,985,076).

Schneider et al discloses a air bag apparatus that comprises a filter, a cooling device, and a pH adjusting material. The pH adjusting material is separate from the gas generating composition (see fig, ref. 10 and 31). The pH adjusting material comprises powdered iron sulfate. The gas generating composition comprises sodium azide and

chromic chloride. The sulfur compound will inherently act to netralize the agents from the combustion. As to limitations which are considered to be inherent in a reference, note the case law of In re Ludke, 169 USPQ 563; In re Swinehart, 169 USPQ 226, In re Fitzgerald, 205 USPQ 594; In re Best et al, 195 USPQ 430; and In re Brown, 173 USPQ 685, 688.

9. Claims 1, 2, 4, 5, 7, 9, 11, 13, 14, 15, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Green et al(5,772,243).

Green et al discloses a gas generator which comprises multiple pellets of a gas generating composition in the chamber (fig. 4, ref. 24) and filters. Each pellet comprises 65-70 % of a metal azide (such as sodium), and 27-33 % of molybdenum disulfide (col. 3, lines 35-45) and there are more than 1 body (pellet) shown. The pellets are separate from each other but in the same combustion chamber. The composition will combust to form nitrogen, oxygen and hydrogen components. The sulfur compound will inherently act to netralize the agents from the combustion. As to limitations which are considered to be inherent in a reference, note the case law of In re Ludke, 169 USPQ 563; In re Swinehart, 169 USPQ 226, In re Fitzgerald, 205 USPQ 594; In re Best et al, 195 USPQ 430; and In re Brown, 173 USPQ 685, 688.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen Felton whose telephone number is (703) 306-5751. The examiner can normally be reached on Monday through Friday from 6:30 am to 4:00 pm.

Art Unit: 3641

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687. The fax number for submissions before a final action is (703) 872-9326, for after final submissions is (703) 872-9327, and customer service is (703) 872-9325.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Aileen B. Felton

Aileen B. Felton